

Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

DRAFT  
10.9.09

BILL 12

LLS NO. 10-0208.01 Thomas Morris

INTERIM COMMITTEE BILL

Interim Committee to Study Issues Related to Pinnacol Assurance

SHORT TITLE: "Workers' Comp Benefits Knowing Penalty"

A BILL FOR AN ACT

101 CONCERNING INCREASED PENALTIES FOR VIOLATIONS OF THE  
102 WORKERS' COMPENSATION LAWS.

Bill Summary

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

**Interim Committee to Study Issues Related to Pinnacol Assurance.** Increases the penalty for violating the workers' compensation laws from up to \$500 to up to \$1,000. Changes the mental state from "willfully" to "knowingly" in the statute that penalizes denying workers' compensation medical benefits, delaying payment of medical benefits for more than 30 days, or stopping payments. Allows the director of the division of workers' compensation or an administrative law judge to

*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

apportion the penalties, in whole or part, among the aggrieved party, the medical services provider, and the workers' compensation cash fund.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** 8-43-304 (1), Colorado Revised Statutes, is  
3 amended to read:

4           **8-43-304. Violations - penalty - offset for benefits obtained**  
5 **through fraud - rules.** (1) Any employer or insurer, or any officer or  
6 agent of either, or any employee, or any other person who violates any  
7 provision of articles 40 to 47 of this title, or does any act prohibited  
8 thereby, or fails or refuses to perform any duty lawfully enjoined within  
9 the time prescribed by the director or panel, for which no penalty has been  
10 specifically provided, or fails, neglects, or refuses to obey any lawful  
11 order made by the director or panel or any judgment or decree made by  
12 any court as provided by said articles shall be subject to such order being  
13 reduced to judgment by a court of competent jurisdiction and shall also  
14 be punished by a fine of not more than ~~five hundred~~ ONE THOUSAND  
15 dollars per day for each such offense, ~~seventy-five percent payable~~ to BE  
16 APPORTIONED, IN WHOLE OR PART, AT THE DISCRETION OF THE DIRECTOR  
17 OR ADMINISTRATIVE LAW JUDGE, AMONG the aggrieved party, and  
18 ~~twenty-five percent to the subsequent injury fund created in section~~  
19 ~~8-46-101~~ THE MEDICAL SERVICES PROVIDER, AND THE WORKERS'  
20 COMPENSATION CASH FUND CREATED IN SECTION 8-44-112 (7) (a).

21           **SECTION 2.** 8-43-401 (2) (a), Colorado Revised Statutes, is  
22 amended to read:

23           **8-43-401. Attorney general, district attorney, or attorney of**  
24 **division to act for director or office - penalties for failure of insurer**  
25 **to pay benefits.** (2) (a) After all appeals have been exhausted or in cases

1 where there have been no appeals, all insurers and self-insured employers  
2 shall pay benefits within thirty days ~~of when~~ AFTER any benefits are due.  
3 If any insurer or self-insured employer willfully KNOWINGLY delays  
4 payment of medical benefits for more than thirty days or willfully  
5 KNOWINGLY stops payments, such insurer or self-insured employer shall  
6 pay a penalty to the division of eight percent of the amount of wrongfully  
7 withheld benefits. If any insurer or self-insured employer willfully  
8 withholds permanent partial disability benefits within thirty days of when  
9 due, the insurer or self-insured employer shall pay a penalty to the  
10 division of ten percent of the amount of such benefits due. THE  
11 PENALTIES SHALL BE APPORTIONED, IN WHOLE OR PART, AT THE  
12 DISCRETION OF THE DIRECTOR OR ADMINISTRATIVE LAW JUDGE, AMONG  
13 THE AGGRIEVED PARTY, THE MEDICAL SERVICES PROVIDER, AND THE  
14 WORKERS' COMPENSATION CASH FUND CREATED IN SECTION 8-44-112 (7)  
15 (a).

16 **SECTION 3. Act subject to petition - effective date -**  
17 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day  
18 following the expiration of the ninety-day period after final adjournment  
19 of the general assembly (August 11, 2010, if adjournment sine die is on  
20 May 12, 2010); except that, if a referendum petition is filed pursuant to  
21 section 1 (3) of article V of the state constitution against this act or an  
22 item, section, or part of this act within such period, then the act, item,  
23 section, or part shall not take effect unless approved by the people at the  
24 general election to be held in November, 2010, and shall take effect on  
25 the date of the official declaration of the vote thereon by the governor.  
26 <do you want a safety clause or a specific effective date?>

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- 1 (2) The provisions of this act shall apply to conduct occurring on
- 2 or after the applicable effective date of this act.